THE HON'BLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION No. 22193 of 2002

DATED: 29.07.2005

Between:

B.Sundaravaradulu Naidu, S/o. late B.Nagama Naidu,
Lecturer in Economics and Head of the Department,
S.G.S. Arts College, Tirupathi, resident of 6-1-85,
Varadaraja Nagar, K.T.Road, Tirupati, Chittor dist.

… Petitioner

And

1)Tirumala Tirupathi Devasthanams, rep. by
its Executive Officer, K.T.Road, Tirupathi
& 4 others … Respondents

ORDER:

Heard Sri P.M.Gopal Rao, learned counsel for the petitioner and Sri S.Venkateswara Rao, learned standing counsel for Tirumala

Tirupathi Devasthanams and the learned Government Pleader for Higher Education appearing on behalf of the respondents 3 and 5.

The petitioner, who has been working as a Lecturer in Economics and Head of Department, S.G.S.Arts College, Tirupathi, filed this Writ Petition, *inter alia,* seeking several reliefs and assailing the action of the respondents in not properly fixing his pay scales and also the impugned orders dated 06.06.2001 of the first respondent rejecting his claim for medical leave.

The case of the petitioner, in short, is to the effect that having regard to the several proceedings in his favour as pointed out in the affidavit filed in support of the petition, he is not only entitled to pay fixation, but also medical leave as such, which have been erroneously rejected by the respondents. During the course of arguments, it is pointed out that as regards to his first relief, the petitioner has already been given the benefit of pay fixation with effect from 01.07.1976 and therefore, the only question which remains to be considered in this Writ Petition is as to the correctness of the impugned proceedings dated 06.06.2001. The petitioner pointed out that as per the proceedings dated 28.06.1976, the Executive Officer has specifically stated that his appointment was already approved by the competent authority and his salary is claimed regularly and paid. Further, as per the proceedings dated 04.05.1987, once again it has been stated that the appointment of the petitioner is approved with effect from 01.07.1976. Similarly, as per the order dated 07.05.1988, the TTD itself approved the pay fixation statement, in respect of the petitioner. That apart, the orders dated 21.02.1990 issued by the Commissioner of Collegiate Education, A.P., Hyderabad states that the petitioner's post has already been admitted to grant-in-aid and necessary certificate has been issued.

Having regard to the aforesaid circumstances, since the petitioner's

initial appointment dates back to the year 1976, it can not be said that he still continues to be or can be treated on temporary basis and therefore, the impugned order is not valid. It is pointed out by the learned counsel appearing for the petitioner that as per the impugned proceedings, the petitioner's claim for medical leave has been rejected by placing reliance on G.O. Ms. No.250 Finance (FR.1) Department, dated 13.12.1967. Even by reading the aforesaid G.O., which is only an amendment to the A.P. Leave Rules and which is applicable only to the temporary employees. Having regard to the fact that the petitioner's services have been regularised, it can not be said that he still continues to remain as temporary. Therefore, it has no application to his case. Further, having regard to the fact that pay fixation has been given effect to from 01.07.1976 to the petitioner and his services are approved, necessarily it follows that the petitioner would be entitled to all such benefits to which he would be entitled as a regular employee and not as temporary employee.

The Writ Petition is, accordingly, allowed, setting aside the impugned orders dated 06.06.2001 and the respondents are directed to consider sanction of medical leave applied by the petitioner. No costs.

29.07.2005

DRK

Issue C.C. in one week.

BO

DRK

That Rule Nisi has been made absolute as above.

Witness the Hon’ble Sri Bilal Nazki, the Acting Chief Justice,

On Friday, the twenty ninth day of July two thousand and five.

…Registrar